

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. NO.: 672-01  
BILL NO.: HB 239  
SUBJECT: Department of Natural Resources; Surface Mining Permits  
TYPE: Original  
DATE: February 13, 2001

---

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue Fund		(\$180,217) to	(\$178,128) to
	\$0	(Unknown)	(Unknown)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>(\$180,217) to (Unknown)</b>	<b>(\$178,128) to (Unknown)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses  
This fiscal note contains 4 pages.

**FISCAL ANALYSIS**

AMK:LR:OD:005 (9-94)

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on their agency.

In response to an identical proposal from the 2000 session (HCS for HB 1619), officials from the **Office of Attorney General** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Natural Resources** (DNR) assume currently Section 444.773.3 RSMo allows the Department to hold a public hearing only if a person's health, safety or livelihood is affected by noncompliance with any applicable laws or regulations. The Department has received numerous requests for public hearings throughout the years, but have denied these requests in accordance with the present statutory criteria (allowing a hearing only if noncompliance affects a person). The Department has held only one hearing related to a surface mining permit.

The proposed legislation grants a public hearing, as defined by Chapter 536 RSMo, if requested by any interested person. The Department assumes the proposed legislation would apply to any permit action which would meet the public notice requirements. The Department averages approximately 60 new applications per year; last calendar year the Department received 70 new applications. The DNR estimates that at least one-half of these applications will result in a public hearing.

Due to the sensitive nature of these public hearings, the Department assumes a hearing officer will be needed for each of these public hearings, resulting in legal expenditures of approximately \$3,800 per hearing. The Department has included these costs for approximately 30 public hearings. The Department does not have the necessary resources to implement the proposed legislation. In addition, if the actual number of public hearings exceeds these projections or the costs for the public hearings exceeds our estimate, the Department may need to request additional resources.

The current statutes state that any decision of the commission made pursuant to a hearing is subject to judicial review. However, due to the sensitivity of the new criterion for public hearings, the Department assumes there would be an increase in the number of permits going through the permit appeals process and judicial review. DNR noted that the number of permit appeals and the associated costs are unknown.

ASSUMPTION (continued)

The Department will request one Land Reclamation Specialist (\$40,716) to investigate requests

for the public hearings, gather information concerning requests, schedule the public hearings, present and verify such evidence before the hearing officer and then communicate findings to the Land Reclamation Commission.

When the current fee structure for surface mining permits was established, a component for the increased criteria for public hearings was not included. Therefore, a modification to the fee structure or general revenue would be required to cover these costs. Since the fee structure is not modified in this proposal, the Department assumes that general revenue will be requested.

**Oversight** has reduced the personal service costs and the expense and equipment costs submitted by the DNR to reflect those costs used in the fiscal note for an identical proposal from the 2000 session, and then increased these costs for inflation.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
---	---------------------	---------	---------

**GENERAL REVENUE FUND**

Cost - Department of Natural Resources

Personal Service (1 FTE)	\$0	(\$37,526)	(\$38,464)
Fringe Benefits	0	(\$12,507)	(\$12,820)
Expense and Equipment	0	(\$12,764)	(\$5,901)
	\$0	(\$62,797)	(\$57,185)

<u>Other Cost - Department of Natural Resources</u>		(\$117,420)	(\$120,943)
Hearing Officer Expense		_____to	_____to
	\$0	(Unknown)	(Unknown)

		(\$180,217)	(\$178,128)
		to	to
<b>Estimated Net Effect on GENERAL REVENUE FUND</b>	<b>\$0</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
---	---------------------	---------	---------

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	------------	------------	------------

FISCAL IMPACT - Small Business

Small businesses could be affected by the provisions of this proposal.

### DESCRIPTION

This proposal makes several changes to the application process for surface mining permits.

Under current law, the applicant is required to publish a notice in a newspaper of general circulation in the local area, interested parties may submit written comments to the Department of Natural Resources or request a public hearing for 15 days after the application is filed, and the Department must forward a recommendation on the permit to the Land Reclamation Commission by the end of the public comment period. This proposal requires the applicant to publish a notice once a week for 4 weeks, beginning no more than 10 days after the application is filed. The applicant is also required to notify by mail the local governing body and property owners within 1,000 feet of the proposed surface mine. Notices must include a statement that interested parties may submit written comments to the Department or request a public hearing up to 15 days after the end of the 4-week public notice period. The Department must forward its recommendation on the permit to the commission within 4 weeks after the end of the public notice period. If a public hearing was requested, the Department will conduct the hearing within 30 days after the end of the comment period, and will make a recommendation to the commission within 15 days after the hearing.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Department of Natural Resources  
Office of Attorney General  
Office of State Courts Administrator



Jeanne Jarrett, CPA  
Director

February 13, 2001